and lead evidence in criminal cases should have no difficulty in civil cases. This is borne by the fact that there are practitioners who appear only in civil cases, and rarely in criminal trials because of the tension the trials generate.

In any case, as regards other aspects of the work of an advocate and solicitor, Mr. Wong Kim Fatt in his certificate says that the petitioner has received instructions or gained experience in the branches of the law specified therein, has been diligent in his work, and has personally satisfied himself that the petitioner had adequate professional experience to qualify him to practice. The objectors do not dispute this. I have to accept the words of a senior member of the Bar. With this certificate and the special attributes and circumstances and background of the petitioner, which I consider to be special grounds as contemplated by law, I feel this is the least that I can do to show recognition to a man who has served the country in law enforcement and assisted the courts in the administration of justice.

I allow the petition and admit the petitioner.

Petition allowed.

Solicitors: *Wong & Paramjothy.*

LAU DAK KEE v. PUBLIC PROSECUTOR

[A.Cr.J. (Mohamed Azmi J.) May 12, 1976]
[Kuala Lumpur — Criminal Appeal No. 134 of 1975]

Constitutional Law — Freedom of Speech — Contravention of condition of licence to convene a political rally — Appellant charged and convicted — Appeal against conviction — Whether condition was ultra vires art. 10 of the Federal Constitution and therefore void — Police Act 1967, s. 27(2) — Federal Constitution, Article 10.

The appellant was found guilty and convicted for having contravened condition No. 14 of the licence issued by the O.C.P.D. The charge against him was as follows:—

"That you on May 20, 1973 at about 10.45 p.m. at Padang Balai Raya, Subang New Village, in the district of Petaling Jaya, in the State of Selangor, contravened a condition of a licence (No. 297276) to convene an assembly issued to one MADHAVAN NAIR by the Ketua Police Daerah, Petaling Jaya, to wit, you spoke on the issue of the M.C.E. results in contravention of condition 14 of the said licence which specified that, *'Tajuk Syarahan tidak boleh menyetoh perkara-perkara berhubong dengan keputusan MCE'*, and that you have thereby committed an offence under section 27(4)(b) of Police Act, No. 41/67 and punishable under section 27(8) of the said Act."

When the defence was called by the learned Magistrate, the appellant elected to remain silent. Consequently, he was convicted of the charge and sentenced to a fine of $500. He appealed against conviction and contended, *inter alia*, that under section 27 of the Police Act, the O.C.P.D. had no power to impose condition 14. Condition 14 was *ultra vires* article 10 of the Federal Constitution and therefore void.

Held, dismissing the appeal: (1) the O.C.P.D. was acting within the law in imposing condition 14 of the licence;

(2) condition 14 was not *ultra vires* the provisions of article 10(2) of the Federal Constitution and it was within the spirit and ambit of section 27(2) of the Police Act 1967.

Case referred to:-

(1) *Madhavan Nair & Anor.* v. *Public Prosecutor* [1975] 2 M.L.J. 264.

CRIMINAL APPEAL.

Karpal Singh for the appellant.

Abdul Kadir bin Musa (Deputy Public Prosecutor) for the respondent.

Mohamed Azmi J.: The appellant was found guilty and convicted in the Magistrate's Court Petaling Jaya of the following charge:

"That you on May 20, 1973 at about 10.45 p.m. at Padang Balai Raya, Subang New Village, in the district of Petaling Jaya, in the State of Selangor, contravened a condition of a licence (No. 297276) to convene an assembly issued to one MADHAVAN NAIR by the Ketua Polis Daerah, Petaling Jaya, to wit, you spoke on the issue of the MCE results in contravention of condition 14 of the said licence which specified that, 'Tajuk Syarahan tidak boleh menyetoh perkara-perkara berhubong dengan keputusan MCE,' and that you have thereby committed an offence under section 27(4)(b) of Police Act No. 41/67 and punishable under section 27(8) of the said Act."

When the defence was called by the learned Magistrate, the appellant elected to remain silent. Consequently, he was convicted of the charge and sentenced to a fine of $500. He now appeals only against conviction.

Briefly, the case of the prosecution was that one Madhavan Nair applied to the Officer-in-Charge of Police District Petaling Jaya for a licence to convene a political rally on May 20, 1973 from 7.00 p.m. to 12.00 midnight at the field in front of the Subang New Village Community Hall. A licence was accordingly issued by the O.C.P.D. to Madhavan Nair subject to fourteen conditions as contained in Exhibit P3 in accordance with section 27(2) of the Police Act No. 41 of 1967. Condition No. 14 provides:

"Tajuk syarahan tidak boleh menyentoh perkara-perkara berhubong dengan keputusan M.C.E. dan kedudukan Bahasa Malaysia sebagai Bahasa Resmi mengikut Perlembagaan Negara."

Thus, under condition 14, no speaker at the rally should touch on matters relating to the M.C.E. results and the status of Bahasa Malaysia as the national language as laid down in the Federal Constitution. Attached to the licence was also a list of authorised speakers at the rally (Exhibit P1C) — one of them being the appellant. The rally took place as scheduled; and when the appellant's turn came to make a speech, he contravened condition No. 14 of the licence issued by the O.C.P.D., as a result of which summons was issued against him.

In the Petition of Appeal, the appellant is dissatisfied with his conviction on the following two grounds: —

(1) that the learned trial Magistrate failed to consider an O.C.P.D.'s powers to impose conditions under section 27(2) of the Police Act No. 41 of 1967 were subject to the restrictions contained in Article 10(2) of the Federal Constitution; and

(2) that the learned trial Magistrate failed to consider condition 14 of Exhibit P3 infringed the fundamental rights of freedom of speech as PW1 (the O.C.P.D.) had no power under section 27 of the Police Act to impose condition 14 of Exhibit P3. Condition 14 was therefore *ultra vires* Article 10 of the Federal Constitution and therefore void.

It should be noted that these two grounds had in fact been dealt with by Chang Min Tat J. in the case of *Madhavan Nair & Anor.* v. *Public Prosecutor*[1] when the matter was referred to him under section 30(2) of the Courts of Judicature Act, 1964. It was

held by the learned judge that condition No. 14 was not in contravention of Article 10 of the Federal Constitution and therefore the Police had powers under section 27 of the Police Act, 1967 to impose the said condition. With respect, I entirely agree and adopt the judgment given by the learned judge.

I need only add that Article 10(1) of the Federal Constitution guarantees the rights of every citizen to freedom of speech, assembly and association. These rights are, however, subject to any law passed by Parliament. Such law can, *inter alia*, impose such restrictions as Parliament may deem necessary or expedient in the interest of security of the Federation or in the interest of public order. One such restriction is provided in section 27 of the Police Act. In my view, pursuant to Article 10(2) of the Federal Constitution, Parliament has by law conferred on the police the power to regulate public assemblies and meetings. Section 27(2) provides:

"Any person intending to convene or collect any assembly or meeting or to form a procession in any public place aforesaid, shall before convening, collecting or forming such assembly, meeting or procession make to the Officer-in-Charge of the Police District in which such assembly, meeting or procession is to be held an application for a licence in that behalf, and if such police officer is satisfied that the assembly, meeting or procession is not likely to be prejudicial to the interest of the security of the Federation or any part thereof or to excite a disturbance of the peace, he shall issue a licence in such form as may be prescribed specifying the name of the licensee and defining the conditions upon which such assembly, meeting or procession is permitted:

Provided that such police officer may at any time on any ground for which the issue of a licence under this subsection may be refused, cancel such licence."

Thus, Parliament has deemed it fit to give full powers to O.C.P.D.s under subsection (2) of section 27 to define conditions upon which an assembly is permitted which, *inter alia*, must include the power to restrict the number of speakers and the topic of their speeches, if they are deemed necessary in the interest of security or to prevent a disturbance of the peace. In the present case, the O.C.P.D. Petaling Jaya had issued a licence to Madhavan Nair to hold a political rally, and it was not in dispute that the appellant, as one of the speakers had contravened condition 14 of the licence. In my view, condition 14 although consisting of two limbs should be read as a whole. Condition 14 when taken as a whole was clearly intended to prevent a sensitive issue from being expounded in an open-air public rally. The evidence of the O.C.P.D. (PW1) revealed that he had imposed condition 14 in view of his experience as O.C.P.D. Petaling Jaya for four years and also from information received from time to time. He testified that he laid down the condition as a preventive measure from any breach of the peace which was likely to happen in view of the fact that the new village where the rally was held was being inhabited by Malays, Chinese and Indians. Being a multi-racial new village, he said that any discussion carried out which was sensitive would be likely to cause a breach of the peace in that area. Now, this evidence of the O.C.P.D. was never seriously challenged by the appellant at the trial. Under the circumstances, I am inclined to the view that the O.C.P.D. was acting within the law by imposing condition 14 of the licence. I think condition 14 can only be challenged if it can be shown that it was imposed *mala fide* in the sense that it was not imposed in the interest of security or to prevent a disturbance of the peace at the time when the licence was issued. There is no such evidence adduced in the present case. Accordingly, I hold that condition 14 is not *ultra vires* the provision of Article 10(2) of the Federal Constitution and that it is within the spirit and ambit of section 27(2) of the Police Act, 1967. The appeal is accordingly dismissed and the conviction and sentence affirmed.

Appeal dismissed.

Solicitors: *Karpal Singh, Wong & Co.*